

### REMARKS

The present application included pending claims 1-53, all of which have been rejected. By this Amendment, claims 1, 9, 10, 17, 21, 22, 28, 36, 37, 44, 47 and 48 have been amended.

Claims 1-53 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2001/0021994 (“Nash”) in view of U.S. 2002/0152117 (“Cristofalo”). The Applicants respectfully traverse these rejections for at least reasons previously discussed during prosecution and the following:

Claim 1 has been amended to recite, in part, “server software that receives a request identifying one or both of the associated network address and/or a user identifier, and responds by automatically selecting media according to a **user-defined profile**, the **user-defined profile** corresponding to one or both of the associated network address and/or a user identifier.” The other independent claims have also been amended to clarify that the profile is **user-defined**. The Applicants respectfully submit that neither Nash, nor Cristofalo, alone or in combination with one another, describes, teaches or suggests automatic selection of media according to a **user-defined profile**.

Nash, for example, discloses a “method of presenting information to a viewer which contains both material which has been explicitly gleaned from either the viewer’s viewing habits or direct inputs by the viewer and material which may be inferred as being possible interest to the viewer but outside the normal viewing habits.” *See* Nash at [0004]. In general, Nash discloses a system and method in which the user profile is determined and generated by the system, but not defined by the user. Indeed, Nash specifically discloses that the system may override user preferences:

By making the rating of an advertisement by one or more reviewers of the quality of the advertisement or the quality of the product or service promoted by the advertisement one of the factors on which the advertisement selection and/or suggestion is made, those advertisements which are highly rated by one or more of the reviewers may be suggested to the viewer even if they do not satisfy other selection criteria.

*Id.* at [0010]. Thus, in Nash, advertisement selection and/or suggestion is determined through reviewers ratings, which may override other selection criteria.

Cristofalo discloses a system and method in which a “media object based content is preferably presented to users based upon profile established **for** the user,” but not by the user. Thus, similar to Nash, Cristofalo does not describe, teach or suggest “automatically selecting media according to a **user-defined profile**.” Instead, Cristofalo is clear that the profile is established **for** the user.

The Applicants respectfully submit that the proposed combination of Nash and Cristofalo does not describe, teach or suggest at least the following:

- “automatically selecting media according to a **user-defined profile**,” as recited in claims 1 and 28;
- “server software that automatically selects media according to a **user-defined profile**,” as recited in claim 10;
- “receiving a **user-defined profile** from a user; automatically selecting media according to the **user-defined profile**,” as recited in claim 21;
- “at least one processor supports receipt, via a communication network, of media that is automatically selected according to a **user-defined profile**,” as recited in claim 37; and
- “sending by a user a **user-defined profile**; receiving by the user information identifying

media automatically selected in accordance with the **user-defined profile**,” as recited in claim 47.

Thus, for at least these reasons, the Applicants respectfully request reconsideration of the rejection of claims 1-53.

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully request that the outstanding rejections be reconsidered and withdrawn. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the Applicants’ attorney at the telephone number listed below.

The Commissioner is authorized to charge any necessary fees, including the \$460 fee for the two (2) month extension of time, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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